

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE A1C	AFSN/SSAN [REDACTED]				
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO						
	X						
MEMBERS SITTING [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]			VOICE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A94.05		INDEX NUMBER A67.50		EXHIBITS SUBMITTED TO THE BOARD			
HEARING DATE 16 May 02		CASE NUMBER FD2002-0015		1	ORDER APPOINTING THE BOARD		
				2	APPLICATION FOR REVIEW OF DISCHARGE		
				3	LETTER OF NOTIFICATION		
				4	BRIEF OF PERSONNEL FILE		
					COUNSEL'S RELEASE TO THE BOARD		
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE		
					TAPE RECORDING OF PERSONAL APPEARANCE HEARING		
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>							
REMARKS							
Case heard at Washington, D.C.							
Advise applicant of the decision of the Board, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR							
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]				
INDORSEMENT			DATE: 16 May 02				
TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB. TX 78150-4742			FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002				

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former A1C) (HGHA1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 01/07/20 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Disch, to Change RE Code, and Reason and Authority for Disch.

2. BACKGROUND:

a. DOB: 79/06/07. Enlmt Age: 19 8/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-45, E-46, G-32, M-15. PAFSC: 3S031 - Personnel Apprentice. DAS: 99/08/09.

b. Prior Sv: (1) AFRes 99/02/26 - 99/04/14 (1 month 19 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 99/04/15 for 4 yrs. Svd: 02 Yrs 03 Mo 06 Das, all AMS.

b. Grade Status: A1C - 00/08/15
AMN - 99/10/15

c. Time Lost: none.

d. Art 15's: (1) 00/01/21, Kirtland AFB, NM - Article 92. You, who knew of your duties, on or about 8 Jan 00, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, as it was your duty to do. Reduction to AB (suspended until 20 Jul 00), 14 days restriction, and 14 days extra duty.
(NO appeal) (NO mitigation)

e. Additional: LOC, 21 SEP 99 - Unauthorized absence.
LOC, 15 MAY 00 - Late to work.
LOR, 06 JUL 01 - Failure to go.
LOR, 06 JUL 01 - Domestic dispute.

f. CM: none.

g. Record of SV: 99/04/15 - 00/12/14 Kirtland AFB 4 (Initial)

(Discharged from Kirtland AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (02) Yrs 04) Mos (25) Das
TAMS: (02) Yrs 03) Mos (06) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/01/02.
(Change Discharge to Honorable, Change RE Code, and Change Reason and Authority for Discharge)

Issue 1: The reason I would like my discharge changed is because of the circumstances in which it was given. Under age drinking in my home 2 yrs ago at 20 yrs old got me an Article 15. Two yrs past and there wasn't another problem. My wife and I get in a minor altercation, which caused me to leave and walk it off. My first shirt spoke to me that night and told me that it was the right thing to do, but the next day he took action. I didn't understand why. I had to report to my O-6 over it and I was very upset that I had to do that and I didn't break the law. So when the O-6 asked me if I wanted to stay in I told him no sir, the military is too ridged and that the rules weren't set up to help out the airmen. I spoke out of anger. I now see that if a first shirt wants to make someone seem like a bad troop that he can. I should have completed my term like I said and I would he (sic) gotten an honorable discharge, but that's now past history, but I would like to say the Air Force has helped make me the good man I am today and for that I'm grateful. I would like to explore reserve options or guard, but I must first upgrade my discharge. If the airforce (sic) doesn't want to let me back then I will take the honorale discharge and go to one of our sister services. Thank you for listening to me. I hope that you find it inside to give a young man a chance again at your Airforce (sic).

ATCH
none.

02/04/08/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 377TH AIR BASE WING (AFMC)

FD2002-0015

MEMORANDUM FOR 377 ABW/CC

FROM: 377 ABW/JA

SUBJECT: Administrative Discharge – A1C [REDACTED] FR [REDACTED] (AFRL, Det 8)

1. **INITIATION OF ACTION:** Capt [REDACTED] AFRL, Det 8/CC, recommends that A1C [REDACTED] (“Respondent”) be administratively discharged for misconduct, specifically a pattern of misconduct, pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.50. She further recommended that Respondent receive a general (under honorable conditions) discharge without an opportunity for probation and rehabilitation (P&R).

2. **RESPONDENT:** Respondent, 21, has been in the Air Force for approximately two years and three months. He was assigned to his current unit on 9 Aug 00.

3. **RESPONDENT’S SUBMISSION:** Respondent was offered the opportunity to consult with his military legal counsel and submit a written response on his behalf. He waived these rights (see Member’s Response to Administrative Discharge Action).

4. **DISCUSSION:**

a. **Basis for Discharge:** Respondent’s disciplinary record reflects two Letters of Counseling, two Letters of Reprimand and an Article 15. Shortly after Respondent arrived on station, Respondent received his first LOR for failure to return to duty after a dental appointment because he took his wife downtown for personal reasons; further, he was counseled for spending excessive time on government phones for taking care of personal business. In May 00, Respondent received another LOC for failing to return to duty on-time after lunch and failing to notify his supervisor that he would be late, resulting in another military member missing an appointment. In Jan 00, Respondent received an Article 15 for underage drinking. This month, Respondent received two LORs for the following offenses: failing to report to the Health and Wellness Center for an ergometry test at the appointed time and for excessive drinking (a six-pack of beer), resulting in a domestic dispute in which his wife called Security Forces because she feared for her safety. There is a sufficient basis for discharge.

b. **Appropriateness of Discharge:** Respondent’s first misconduct occurred the first month after he arrived on station and has continued since then. His five administrative disciplinary actions during his two years of active duty do not support continued military service. Repeated attempts to change and improve his behavior have failed; for example, he has two alcohol-related actions for alcohol use, and he has a continuing pattern of failing to return to duty. The legal office has consulted with the Commander recommending discharge, because the documented misconduct appears to be less egregious than in other packages. According to the Commander, Respondent has been a poor performer during the entire two years he has been assigned to AFRL. His supervisors have advised him for hours on end regarding his mediocre job performance, and he lacks motivation to complete even the simplest tasks. Further, Capt [REDACTED] found out, after this discharge package was initiated, that there were allegations that Respondent threatened to kill three military members while in a drunken state at the dorm. Although these circumstances cannot be considered as a basis for discharge, they played a part in the Commander’s decision-making. Discharge is appropriate and would be in the best interest of the Air Force.

c. **Characterization of Service:** Table 1.3 of AFI 36-3208 provides that a discharge for a pattern of misconduct may be characterized as either honorable, general (under honorable conditions), or under other than honorable conditions (UOTHC). Only the General Court-martial Convening Authority can approve an

honorable or UOTHC discharge. A general discharge is appropriate when significant negative aspects of an airman's conduct outweigh the positive aspects of his military record. Respondent's short tenure in the Air Force, coupled with his acts of misconduct, warrant a general discharge. The repetitive nature of his misconduct is the most significant aspect of Respondent's military record and, therefore, outweighs its positive aspects.

d. **Probation and Rehabilitation:** Respondent is eligible for P&R under AFI 36-3208, Chapter 7 and requests P&R. The Commander does not recommend P&R. P&R is generally reserved for members who have demonstrated a potential to serve satisfactorily, have the capacity to be rehabilitated, and whose probationary retention on active duty is consistent with the maintenance of **good** order and discipline in the Air Force. Respondent has not demonstrated any potential to serve satisfactorily and has shown, through his conduct, that he does not have the capacity to be rehabilitated. His retention on active duty would not be consistent with maintaining good order and discipline. Multiple attempts to rehabilitate Respondent's behavior have been unsuccessful. P&R is not appropriate for Respondent.

e. **Legal Sufficiency:** This action is legally sufficient.

5. **ERRORS OR IRREGULARITIES:** None.

6. **OPTIONS:** As the Separation Authority, you may:

- a. Retain Respondent;
- b. Approve the separation with an honorable discharge, with or without P&R;
- c. Approve the separation with a general discharge, with or without P&R; or
- d. Return the file to the unit with a recommendation that Respondent be processed for separation with an UOTHC discharge.

7. **RECOMMENDATION:** That you approve Respondent's separation with a general discharge without P&R. If you have any questions, please contact Capt [REDACTED] at 64170.

[REDACTED]
[REDACTED] Capt, USAF
Assistant Staff Judge Advocate

I concur.

[REDACTED]
[REDACTED] Lt Col, USAF
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESEARCH LABORATORY, DET 8 (AFMC)
KIRTLAND AIR FORCE BASE NEW MEXICO

13 July 2001

MEMORANDUM FOR AIC [REDACTED], FR [REDACTED]

FROM: AFRL, DET 8/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, a pattern of misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 21 Sep 99, you left for your dental appointment scheduled for 1015 hrs at approximately 0930 hrs. You did not return to work until approximately 1410 hrs. Upon discussing the reason why you were so late, you mentioned you only have one car and you had to take your wife downtown to take care of personal business, however you failed to notify your immediate supervisor or anyone else of your situation. For your actions you received a Letter of Counseling (LOC), dated 21 Sep 99. (Atch A)

b. On 15 May 00, you left for lunch at 1200 hrs with Amn [REDACTED]. You did not return until approximately 1340 hrs. Upon discussion you stated that you were waiting at your residence for Amn [REDACTED] to return and after waiting approximately 10-15 minutes you walked to his residence and let him know that it was already past time to return to work. Your lateness caused an impact on the manning of the office. For your actions you received a LOC, dated 15 May 00. (Atch B)

c. You, who knew of your duties at or near KAFB, NM, on or about 8 Jan 00, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, as it was your duty to do. For this offense you received an Article 15, nonjudicial punishment, dated 25 Jan 00. (Atch C)

d. On or about 27 Jun 01, you failed to go to your appointed place of duty, to wit: 'Health and Wellness Center for an appointment with Maj [REDACTED] for your cycle ergometry test at the appointed time. For your actions your received a LOR, dated 6 Jul 01. (Atch D)

e. On 30 Jun 01, MSgt [REDACTED], Phillips Research Site Acting First Sergeant, received a phone call concerning a domestic dispute at approximately 2320 from the 377th SFS law enforcement desk. MSgt [REDACTED] arrived at your home at approximately 2415 and was briefed by Security personnel that your wife phoned 911 following a verbal altercation with you. Your wife stated to MSgt [REDACTED] that you had consumed a six pack of beer, a verbal altercation

ensued, and your behavior became bizarre and unpredictable, causing her to fear for her safety. For your actions you received a LOR, dated 6 Jul 01. (Atch E)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Special pay, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Captain [REDACTED] at building 20200, ext. 6-5554, on waived at hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within 3 workdays from today unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

7. You will complete a medical examination at the 377th Medical Group on 16 Jul 01 at 1400

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in your unit orderly room.

[REDACTED]
[REDACTED], Capt, USAF
Commander

Attachments:

- A. LOC, dated 21 Sep 99
- B. LOC, dated 15 May 00
- C. Art-15, dated 25 Jan 00
- D. LOR, dated 6 Jul 01
- E. LOR, dated 6 Jul 01
- F. UIF entry dated 6 Jul 01